

Nuclear Regulatory Commission

§ 9.13

technical, or other information program or policy.

§ 9.13 Definitions.

Agency record means a record in the possession and control of the NRC that is associated with Government business. Agency record does not include records such as—

(1) Publicly-available books, periodicals, or other publications that are owned or copyrighted by non-Federal sources;

(2) Records solely in the possession and control of NRC contractors;

(3) Personal records in possession of NRC personnel that have not been circulated, were not required to be created or retained by the NRC, and can be retained or discarded at the author's sole discretion, or records of a personal nature that are not associated with any Government business; or

(4) Non-substantive information in logs or schedule books of the Chairman or Commissioners, uncirculated except for typing or recording purposes.

Commercial-use request means a request made under § 9.23(b) for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

Direct costs mean the expenditures that an agency incurs in searching for and duplicating agency records. For a commercial-use request, direct costs include the expenditures involved in reviewing records to respond to the request. Direct costs include the salary of the employee category performing the work based on that basic rate of pay plus 16 percent of that rate to cover fringe benefits and the cost of operating duplicating machinery.

Duplication means the process of making a copy of a record necessary to respond to a request made under § 9.23. Copies may take the form of paper copy, microform, audio-visual materials, disk, magnetic tape, or machine readable documentation, among others.

Educational institution means an institution that operates a program or programs of scholarly research. Educational institution refers to a pre-school, a public or private elementary or secondary school, an institution of graduate higher education, an institu-

tion of undergraduate higher education, an institution of professional education, or an institution of vocational education.

Freedom of Information Act and Privacy Act Officer means the NRC official designated by the Chief Information Officer to fulfill the responsibilities for implementing and administering the Freedom of Information Act and the Privacy Act as specifically designated under the regulations in this part.

Noncommercial scientific institution means an institution that is not operated on a commercial basis, as the term "commercial" is referred to in the definition of "commercial-use request," and is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

Office, unless otherwise indicated, means all offices, boards, panels, and advisory committees of the NRC.

Record means any information that would be an agency record subject to the requirements of the Freedom of Information Act when maintained by the NRC in any format, including an electronic format. Record also includes a book, paper, map, drawing, diagram, photograph, brochure, punch card, magnetic tape, paper tape, sound recording, pamphlet, slide, motion picture, or other documentary material regardless of form or characteristics. Record does not include an object or article such as a structure, furniture, a tangible exhibit or model, a vehicle, or piece of equipment.

Representative of the news media means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term news means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscriptions by the general public.

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Review time means the period devoted to examining records retrieved in response to a request to determine whether they are exempt from disclosure in whole or in part. Review time also includes the period devoted to examining records to determine which Freedom of Information Act exemptions, if any, are applicable and identifying records, or portions thereof, to be disclosed.

Search time means the period devoted to looking for agency records, either manually or by automated means, for the purpose of locating those records that are responsive to a request. This includes a page-by-page or line-by-line identification of responsive information within the records.

Unusual circumstances mean—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records demanded in a single request; or

(3) The need for consultation, which will be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the NRC having substantial subject-matter interest therein.

§ 9.15 Availability of records.

The NRC will make available for public inspection and copying any reasonably described agency record in the possession and control of the NRC under the provisions of this subpart, and upon request by any person. Records will be made available in any form or format requested by a person if the record is readily reproducible by NRC in that form or format. NRC will make reasonable efforts to maintain its records in forms or formats that are reproducible. NRC will make reasonable efforts to search for records in electronic form or format when requested, except when these efforts would significantly interfere with the operation of any of the NRC's automated information systems. Records

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that the NRC routinely makes publicly available are described in § 9.21. Procedures and conditions governing requests for records are set forth in § 9.23.

§ 9.17 Agency records exempt from public disclosure.

(a) The following types of agency records are exempt from public disclosure under § 9.15:

(1) Records—

(i) That are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and

(ii) That are in fact properly classified pursuant to such Executive Order;

(2) Records related solely to the internal personnel rules and practices of the agency;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that the statute—

(i) Requires that the matters be withheld from the public in a manner that leaves no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person that are privileged or confidential;

(5) Interagency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of these law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;